



APPEAL TO THE BOARD OF ADJUSTMENT

Petition Date: March 3, 2016

Owner/Applicant: Tom & Sarah Eidelman

Requested Action: A 25.5-foot variance from the required rear yard setback of 30.5 feet to allow the construction of an addition to connect the existing single-family residence and detached garage (Section 405.1900.2).

Location of Site: 7726 Mohawk Place

Subdivision: Davis Place

Size of Property: 12,159 square feet

Zoning District: R-2 Single Family Dwelling District

Prepared By: Louis Clayton, Planner

Date: February 26, 2015

Plans are available for review during business hours in the Department of Planning and Development Services.

Louis Clayton
Planner/Staff Liaison

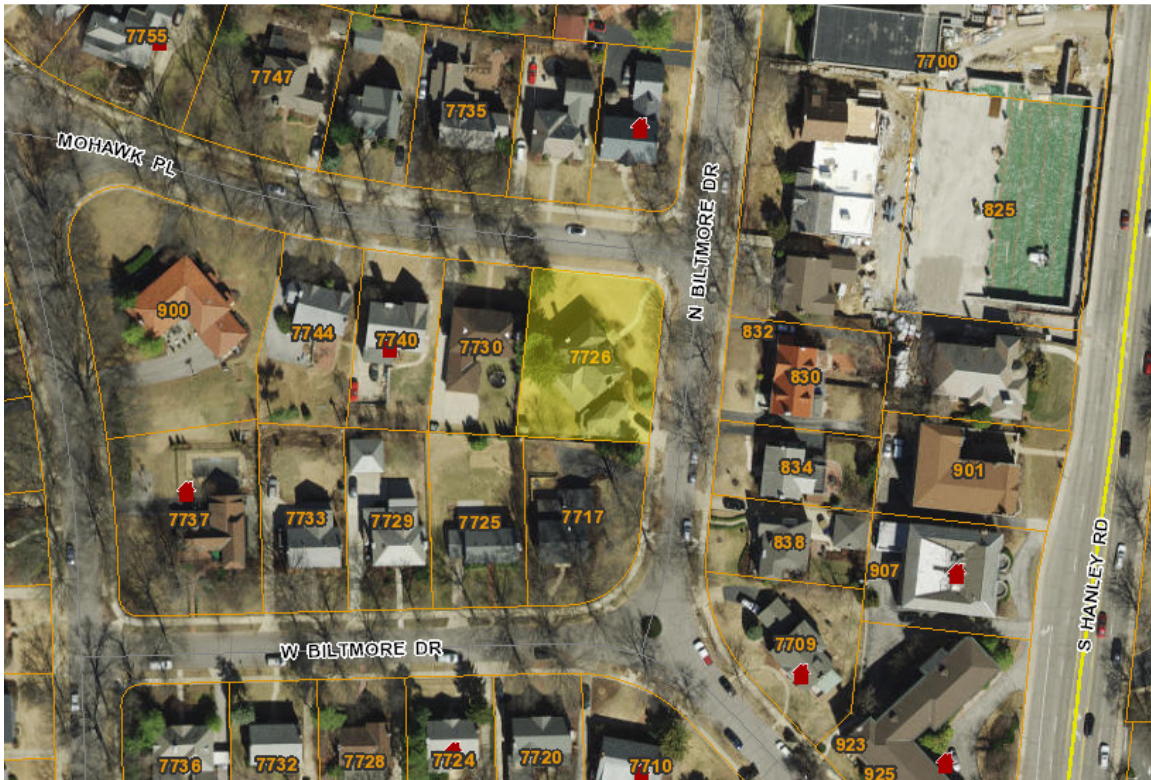
Exhibits:

- A. Code of Ordinances for the City of Clayton & Clayton Master Plan
- B. Zoning Review Application and Denial Letter from Louis Clayton, Planner
- C. Appeal to the Board of Adjustment
- D. Drawings submitted by Applicant including a property survey, site plan, and elevations
- E. Staff Report

STAFF REPORT

EXISTING CONDITIONS:

The 12,159-square-foot property is located at the southwest corner of Mohawk Place and North Biltmore Drive. The property has a zoning designation of R-2 Single Family Dwelling District and the surrounding properties contain single-family residences. The shape of the lot is rectangular and contains a 3,508-square-foot single-family residence constructed in 1934, and a two-story detached garage which was constructed in 1998. The garage has access from North Biltmore Drive. The following map shows the subject property and adjacent properties:



PROJECT DESCRIPTION AND VARIANCE REQUEST:

On January 11, 2016, Tom Eidelman, owner, submitted an application for Zoning Review and plans for the construction of a 118-square-foot rear addition connecting the home to the detached garage. On January 15, 2016, staff completed an initial review of the plans and prepared a Zoning Review Denial Letter addressed to the applicant indicating that by connecting the home to the detached garage, the garage will be subject to the principal structure setback requirements, and therefore, encroaches 25.5 feet into the required 30.5-foot rear yard setback. The applicant is requesting the following variance:

A 25.5-foot variance from the required rear yard setback of 30.5 feet to allow the construction of an addition to connect the existing single-family residence and detached garage (Section 405.1900.2).

The existing property owner of record, appellant and adjoining property owners have been advised of this variance request and the date and time of the hearing. Additionally, the property has been posted with a public hearing notice.

ANALYSIS:

Staff's analysis is based on a preliminary assessment of elements of the applicable ordinances, information contained in the file, documents and observations made of the site and its environs. As part of this variance request, the applicant must demonstrate that an extreme hardship or severe practical difficulty exists based upon the shape of the lot, topography or other natural situation not the fault of the applicant. Therefore, in considering this appeal, the Board of Adjustment is authorized to grant a variance only upon findings that:

- a. **There are practical difficulties or unnecessary hardships associated with the strict application of the Zoning Regulations, due to the exceptional or unique circumstances or conditions such that strict application would deprive the owner of reasonable use of the property. Can the property be used for what it is zoned for?**

APPLICANT RESPONSE: No

STAFF OBSERVATIONS: The shape of the lot is consistent with other regularly shaped corner lots in the neighborhood. The existing home is oriented towards the intersection and partially encroaches into both the rear and front yard setbacks. The existing detached garage is in conformance with the setback requirements for accessory structures (5 feet from the rear and side property lines and 10 feet from the principal structure); however, when attached to the home through the proposed addition, it will be subject to the setback requirements for principal structures and therefore encroach 25.5 feet into the 30 foot rear yard setback. Given the placement of the existing garage, home, and driveway, construction of an attached garage on this site in conformance with the setback requirements would be challenging.

- b. **Granting the variance requested would observe the spirit of the Zoning Regulations and secure public safety and welfare.**

APPLICANT RESPONSE: No

STAFF OBSERVATIONS: The Zoning Regulations establish setbacks to maintain an appropriate amount of light and air amongst structures and to ensure compatible development of properties within the district in which they are zoned. The only construction proposed is a 118-square-foot, one-story addition between the existing home and detached garage. The footprint and setbacks of the detached garage have been in place since 1998 and will not be affected.

- c. **The deviation from strict application of the Zoning Regulations authorized by the variance would not constitute a change in the district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area and would not in any other respect impair the public health, safety, comfort, morals and welfare of the City of Clayton.**

APPLICANT RESPONSE: Yes. The proposed use is contained between existing structures on the property, and will have no effect on adjacent properties.

STAFF OBSERVATIONS: In this case, deviation from the strict application of the Zoning Regulations would allow for a buildable area for an attached garage comparable to other nearby lots. The proposed one-story addition is relatively small and will not be a detriment to adjacent properties due to the placement of existing buildings and landscaping which screen it from view. The footprint and setbacks of the detached garage have been in place since 1998 and will not be affected. For these reasons, granting the variances would not likely impair an adequate supply of light and air or negatively impact adjacent property.

ALTERNATIVES:

The applicant has not listed any alternatives.

BOARD ACTION:

The Board of Adjustment should consider all testimony and relevant facts to render its decision. The Board should articulate its findings of fact based on the criteria for consideration of variances into the record in support of its decision. After hearing the testimony and all relevant facts, the Board of Adjustment may, at its discretion:

1. Approve the appeal as presented or approve with specific conditions.
2. Table this item for further review.
3. Deny the appeal as presented.